

SUMMARY OF
ETHICS RULES
NATIONAL
TELECOMMUNICATIONS
AND INFORMATION
ADMINISTRATION
2010

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

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**ETHICS LAW AND PROGRAMS
DIVISION
OFFICE OF THE ASSISTANT
GENERAL COUNSEL FOR
ADMINISTRATION
UNITED STATES DEPARTMENT
OF COMMERCE
202-482-5384
ethicsdivision@doc.gov
www.ogc.doc.gov/ethics.html**

PUBLIC SERVICE IS A PUBLIC TRUST

As an employee of the National Telecommunications and Information Administration (NTIA), you have been placed in a position of trust and are held to a high standard of ethical conduct. This handout contains a summary of the rules set forth in conflict of interest statutes and the *Standards of Ethical Conduct for Employees of the Executive Branch*. You should retain this handout for use as a reference source. The first part of the handout contains a basic summary of ethics rules; the second part provides specific guidance for NTIA employees regarding some of the ethics rules.

For advice about ethics rules, contact the Ethics Law and Programs Division of the Office of the Assistant General Counsel for Administration, U.S. Department of Commerce, at 202-482-5384 or ethicsdivision@doc.gov.

Designated Agency Ethics Official:
Cameron F. Kerry, General Counsel

Alternate Designated Agency Ethics Official:
Barbara S. Fredericks, Assistant General Counsel for Administration

Office of the Assistant General Counsel for Administration

To obtain legal advice regarding other administrative law issues, call the:

Employment and Labor Law Division at 202-482-5017 – for advice regarding personnel law and labor law issues

General Law Division at 202-482-5391 – for advice regarding appropriations laws and laws regarding the release of information, conduct of advisory committee meetings, and general administrative law issues.

Office of Inspector General – The Ethics Law and Programs Division provides advice but does not investigate allegations of violations of law. To report fraud, waste, abuse, or other violations of law, or to request an investigation, call the Office of Inspector General Hotline at 800-424-5197 or 202-482-4661 or email hotline@oig.doc.gov.



FINANCIAL CONFLICTS OF INTEREST

NTIA

Basic Principle: No Self-Dealing

General Rule. You may not participate as a Government official in a matter that will have a direct and predictable effect on your financial interests; on the financial interests of your spouse, minor children, household members, general partners, outside employers, or prospective employers; or on the financial interests of an organization in which you serve as a trustee, officer, or board member. This includes a matter that affects a company in which you own stock.

Exemptions from the General Rule. Exemptions permit you to participate in matters affecting a financial interest if the financial interest is:

- a holding in a diversified mutual fund;
- a holding in an industry sector-specific mutual fund or geographic sector-specific mutual fund of \$50,000 or less (if interests in all such funds in the same sector are \$50,000 or less);
- a publicly-traded stock or bond holding of \$15,000 or less;
- a publicly-traded stock or bond holding of \$25,000 or less with regard to a matter in which the entity is not a named party (and if total holdings in all affected entities are \$25,000 or less or, if it is a broad policy matter, if total holdings in the industry or group affected by the matter are \$50,000 or less); or
- not substantial and for which you have received a conflict of interest waiver through the Ethics Law and Programs Division. (Such waivers are generally available only for employees serving overseas under current Department policy.)

Waivers. Waivers of the disqualification requirement may be granted with regard to interests that are not covered by one of the exemptions but that are not substantial; however, current Department policy is to rely on the exemptions listed above rather than issue individual waivers. Nevertheless, if you believe that a waiver is appropriate in a particular case, contact the Ethics Law and Programs Division at 202-482-5384.



APPEARANCES OF BIAS (NON-FINANCIAL CONFLICTS OF INTEREST)

NTIA

Basic Principle: No Special Favors

Appearances of Impropriety concerning Participating in Matters Involving Relatives and Associates. Unless you receive specific authorization, you may not participate in a matter as an NTIA employee if one of the parties to the matter is (or is represented by) a person with whom you have a close family or business relationship (a “covered relationship”), if your participation would create an appearance of loss of impartiality.

Persons with whom you are considered to have a “covered relationship” include:

- persons with whom you have or are seeking a business or a financial relationship (other than a routine consumer transaction);
- members of your household;
- your close relatives;
- employers and clients of your parents, dependent children, and spouse (and their prospective employers and clients);
- former non-Federal employers and clients (for a one-year period, or a two-year period if you received an extraordinary severance payment from the former employer before entering into Federal service); and
- organizations in which you are an active participant (other than political organizations).

In addition, if you are a non-career (political) appointee and served as a registered lobbyist at any point in the two-year period before your appointment, for two years you may not work as a Federal employee on any matter on which you provided lobbying services or on any matter within the specific issue area on which you lobbied.

Exceptions. Authorization to participate in a matter in which one of these persons or entities is a party (or represents a party) may be granted if NTIA’s need for your participation outweighs appearance concerns. To seek such an authorization, contact the Ethics Law and Programs Division at 202-482-5384.



GIFTS, BRIBES, AND SALARY SUPPLEMENTATION

NTIA

Basic Principle: Avoid Undue Influence

Bribes and Salary Supplementation. You may not ask for or accept payment for taking or failing to take action as a Federal employee or for performing your Government job.

Personal Gifts. Generally, you may not accept a gift from anyone who has (or is seeking) a contract, grant, or other business with the Department; that is regulated by the Department or has interests that may be affected by performance of your NTIA duties or a gift that is offered because of your Government position. This usually includes gifts to your spouse or minor child. However, *exceptions* permit you to accept:

- gifts of \$20 or less (other than cash) (up to \$50 per year from the same donor);*
- gifts from relatives or friends (if based on a personal relationship);
- invitations to widely-attended events (if from the host (generally) and if your supervisor approves your attendance as being in NTIA's interest);*
- discounts available to a broad range of persons;
- awards and honorary degrees (in specified circumstances);*
- meals, lodging, or transportation offered based on outside employment;*
- business meals overseas, if a foreign citizen is present (to the city's *per diem*);* and
- gifts from a foreign government of \$335 or less—gifts of over \$335 may be accepted, but become property of the United States Government.

** this exception does not apply if you are a political appointee and the gift is from a lobbyist or lobbying organization that is not a 501(c)(3) organization or a media company*

Gifts between Employees. In general, you may not offer a gift to a supervisor or accept a gift from a subordinate. However, *exceptions* permit you to accept or give:

- a gift for a major life event (such as a child's birth, a retirement, or a wedding);
- items of \$10 or less given occasionally;
- food shared in the office; and
- personal hospitality at one's home or a gift to a host or hostess.

Gifts to NTIA. With approval, you may accept a gift for NTIA activities, including travel (if unsolicited), if acceptance would not appear improper; this generally bars gifts from anyone who is an NTIA contractor or grantee or is regulated by NTIA.



OUTSIDE EMPLOYMENT AND ACTIVITIES

NTIA

Basic Principle: Avoid Divided Loyalties

General Rule on Outside Employment. You may not engage in outside employment or any other outside activity that conflicts with your NTIA position, including employment that requires disqualification from significant Government duties and activities that create an appearance of using public office for private gain. There are special rules for practicing law, writing or teaching for compensation, and working overseas. Furthermore, special rules apply regarding outside activities of political appointees. Call the Ethics Law and Programs Division for specific advice regarding these special rules.

Working for a Foreign Government. The U.S. Constitution bars you from working for, or accepting any compensation from, a foreign government, absent statutory approval.

General Rule on Contacting the Government and Receiving Payments for Communications by Others. You may not, in general, act as an agent or attorney or, if paid, otherwise represent anyone before any Federal agency or Federal court in your personal capacity. Representation includes any contact made on behalf of someone else with the intent to influence Government action. In addition, you are barred from receiving any payment that is based on the representational activities of someone else, such as a partner, before a Federal agency or Federal court during a period in which you served as a Federal employee.

Exceptions to the Rule on Contacting the Government. You may represent other Federal employees in some personnel disputes if you do not receive compensation and you may represent your parents, spouse, or children, or an estate or trust, if you receive prior approval. You also may represent, without compensation, professional, recreational, and similar groups before the Government if the majority of the organization's members are Federal employees or their spouses or dependents, and if the matter does not involve claims against the Government, proceedings in which the organization is a party, or Government financial benefits to the organization. Contact the Ethics Law and Programs Division (202-482-5834) if you need to obtain prior approval or advice.



POLITICAL ACTIVITIES

NTIA

Basic Principle: Keep Government and Political Activities Separate

General Restrictions concerning Engaging in Political Activities. You may not engage in partisan political activities while on Government premises or while on official duty. You also may not use the authority of your Government position or Government resources, including equipment, services, or your official title, in connection with partisan political activities. In addition, you may not:

- accept or receive a political contribution;
- personally solicit political contributions or host a political fund-raiser;
- run as a candidate in a partisan election (except as an independent candidate in local elections in the Washington, D.C. suburbs and other designated areas); or
- solicit or accept volunteer services from a subordinate.

(However, an exception to the rule against political fund-raising lets a union member solicit other union members who are not subordinates for contributions to a multi-candidate political committee of the union.)

Permissible Activities. Except as indicated in the above restrictions, you may actively engage in political campaign activities during non-duty hours (unless you are a career member of the SES or an administrative law judge). Permissible activities include:

- assisting in the management of a campaign;
- serving as an officer in a political organization;
- soliciting votes (but not funds) for a candidate;
- giving speeches on behalf of a candidate or party;
- making telephone calls or stuffing envelopes on behalf of a campaign; and
- speaking at a fund-raising event (if you do not ask for funds and are listed as a guest or speaker and not as a host of the event).

Special Rules for Career SES Members. If you are a career member of the Senior Executive Service, you may not actively assist in the conduct of a partisan campaign or serve as an officer in a political organization, even during non-duty hours. However, during non-duty hours you may actively participate in nonpartisan elections and referenda; regarding partisan candidate campaigns, you may vote, make contributions, sign nominating petitions, and engage in similar activities.



MISUSE OF GOVERNMENT POSITION AND RESOURCES

NTIA

Basic Principle: Do Not Steal

Use of Government Resources. You may use Government resources only for authorized Government activities. Such resources include Government equipment, supplies, and services, and the time of Government personnel. You may not use nonpublic information you receive as a Federal employee for personal purposes. You may, however, use frequent flier miles and other benefits you earned from Government travel for personal purposes, including personal travel or upgrades for official travel.

Rule on the Use of the Internet and E-mail. You may use access to e-mail and to the internet for personal activities if such use does not interfere with the business of your office and is not prohibited by your agency, *provided that* you do not use access for:

- obtaining or viewing sexually explicit material;
- the pursuit of private commercial business activities or profit-making ventures;
- partisan political activities;
- prohibited lobbying activities;
- uses that result in additional charges to the Government;
- engaging in prohibited discriminatory conduct;
- any activity that would bring discredit on the Department; or
- any violation of a statute or regulation.

You may also use office printers for personal internet and e-mail uses, provided it does not consume excessive resources.

Use of Government Position. You may not use your Government authority, including business contacts obtained through your Government employment, for personal activities. In addition, you may not use your NTIA title in connection with a non-Government activity, except that you may use your Government title in connection with personal activities as part of general biographical data if it is given no more prominence than other significant biographical details.

If you are a political appointee (non-career employee), you are specifically required by an Ethics Pledge you signed to make hiring and employment decisions based on the candidate's qualifications, competence, and experience.



SEEKING EMPLOYMENT AND POST-EMPLOYMENT ACTIVITIES

NTIA

Basic Principle: Avoid Divided Loyalties

Seeking Employment. Once you begin to seek non-Federal employment, you must disqualify yourself from working as a NTIA employee on any matter that will affect a prospective employer. This disqualification continues until either you or the prospective employer indicate a decision not to pursue the matter further (or until two months with no response after submitting a résumé). If you are participating in a procurement over \$100,000, you must give written notice to your supervisor and the Ethics Law and Programs Division of employment contacts with or from a competing contractor.

Post-Employment Restrictions. After you leave Federal service, you may not:

- contact a Federal agency or court on behalf of someone else concerning a specific-party matter on which you worked;
- for two years, contact a Federal agency or court on behalf of someone else concerning a specific-party matter on which a subordinate of yours worked or which was otherwise under your responsibility during your last year of Federal service;
- for one year if you are a senior career employee or two years if you are a senior political appointee (have an annual base pay of \$155,440 or more), contact NTIA (or the entire Department if you are a Presidential appointee) on behalf of someone else;
- for one year, if you are a senior employee, advise (or represent before the U.S. Government) a foreign government or foreign political party;
- disclose or use protected nonpublic Federal information, such as treaty negotiation information, private personnel information, trade secrets or proprietary business information, and national security information;
- for one year, accept compensation from the contractor of a \$10,000,000 or more procurement, if you served as a procurement official or program manager; or
- if you are a political appointee, for the remainder of the President's Administration, lobby any political appointee in the Executive Branch.

Exceptions and Special Post-Employment Rules. There are some exceptions to these rules, such as for providing testimony in some cases and for representing state and local governments, international organizations, and educational and medical institutions. Additional restrictions apply to attorneys, and to former employees who received buyouts. Contact the Ethics Law and Programs Division for a handout and advice.



FINANCIAL DISCLOSURE

NTIA

Basic Principle: Tell the Whole Truth

Guidelines for Filing a Financial Disclosure Report. If you serve in a position in which your activities could have a substantial impact on the public, you may be required to file a financial disclosure report. Such reports are due when you are appointed to such a position and annually thereafter. The information requested on such forms—financial investments, liabilities, gifts, non-Federal positions, and arrangements with past and future employers—is information relevant to the ethics rules discussed in this handout. Ethics officials review the reports in order to identify potential conflicts of interest and to advise you on means to resolve any problem. For this system to work effectively, you must file your report on time and you must list all information requested as completely and clearly as possible.

Specific Guidance. When filling out your report, please:

- sign and date the report;
- if reporting an IRA or 401(k) plan, identify the specific holdings in the account;
- do not list as a gift payments for Government travel—these are gifts to the Government and should be reported on a Form CD 210 and a Form SF 326; and
- if listing an investment in, or position with, a closely-held company or partnership, identify the nature of the business and its location (city and state).

Remember that this information is used to provide advice to you, so the information you include on your report must be specific and complete in order to be useful.

**For further advice on ethics rules, contact the
Ethics Law and Programs Division
of the Assistant General Counsel for Administration,
U.S. Department of Commerce, at
202-482-5384 or ethicsdivision@doc.gov.**



**GUIDANCE FOR EMPLOYEES
OF THE
NATIONAL TELECOMMUNICATIONS AND
INFORMATION ADMINISTRATION**

NTIA

Financial Conflicts of Interest

Investments in Telecommunications Companies and Mutual Funds – Because of NTIA's role regarding the telecommunications industry, you generally may not invest in telecommunications firms or in mutual funds that focus their investments in such firms. This is based in part on the requirement that you be available to work at NTIA on issues that may affect the financial interests of such firms and in part on the concern that you have access to nonpublic information regarding telecommunications matters and that it may appear that you used such information for personal gain when making investment decisions. However, you should seek specific advice as to whether a particular investment will present a conflict of interest in your situation, particularly if it will not require you to disqualify yourself from significant NTIA duties.

Appearances of Bias (Non-Financial Conflicts of Interest)

Participation in Professional Organizations – If, in a personal capacity, you are an active member of a professional organization, such as a business association or professional society, you will be barred from participating at NTIA on matters in which that organization is a party or is representing a party. If this will interfere with your NTIA duties, you should refrain from such activities or should seek advice from the Ethics Law and Programs Division. If you are serving with an organization, you must be careful not to commingle your private and Government activities, such as by speaking at an organization event in your official capacity or while on Government time. If it is useful for your office to provide input to the organization, you may be permitted to serve as a liaison in an official capacity, but only if you do not also have a role with the organization in a private capacity. You may not serve in an official capacity as an officer or director of a non-Federal organization (unless it is a standards-setting body).

Authorization to Participate in a Matter Involving a Former Employer or Client – As noted in the summary of ethics rules, you generally may not participate in a matter if one of the parties is a former employer or client, or if one of the parties is represented by a former employer or client, for a period of one or two years (depending on severance payment arrangements and whether you are a political appointee). If it is important for NTIA that you participate in the matter, notwithstanding the potential appearance problems, special authorization to participate is available through the Ethics Law and Programs Division.

Gifts, Bribes, and Salary Supplementation

Widely-Attended Events – You may be invited to an event, such as a dinner, lunch, or reception, held by a company, organization, or government with interests in NTIA activities. You may attend such an event if: (1) the value of the invitation is \$20 or less (and total gifts you received from the person or firm inviting you will remain \$50 or less for the year) or your supervisor approves your attendance as in the interest of NTIA (and, if the invitation is not from the host, more than 100 persons are attending and the value per person is \$335 or less) and (2) if you are a political appointee, if the invitation is not from a lobbyist or lobbying organization (unless it is a 501(c)(3) organization or a media company). To an event for which you received supervisory approval to attend, you may also bring your spouse or an accompanying guest if other persons invited are also allowed to bring a spouse or accompanying guest. However, you may not attend such an event if it is primarily entertainment in nature, such as a concert or sports event. A supervisor reviewing such a request for approval must carefully consider the benefit the agency will receive and determine whether there will be any adverse public reaction to a NTIA employee attending the event and, if so, whether the benefit outweighs the appearance of impropriety. To assist supervisors, the Ethics Law and Programs Division will provide a form for your supervisor to sign that describes all the factors that must be considered before approval is given.

Gifts from a Lobbyist or Lobbying Organization to a Political Appointee – If you are a political appointee, you are required to sign an Ethics Pledge agreeing not to accept gifts from lobbyists or lobbying organizations (persons required to register under the Lobbying Disclosure Act and organizations hiring such persons), in most cases even if an exception applies under the general ethics regulations relating to gifts. This bar on gifts from lobbyists does not apply, however, to gifts from 501(c)(3) organizations or from media companies. However, if you are a political appointee, you may not accept from a lobbyist or lobbying organization: gifts of \$20 or less as well as gifts over that amount (unless an exception applies not related to the value of the gift); invitations to widely-attended gatherings (regardless of whether your supervisor signs an approval form); awards and honorary degrees; business meals overseas; and meals, lodging, transportation, and similar benefits based on an outside business relationship.

Gifts from a Foreign Government – Due to a change in law in 2008, gifts from a foreign government of \$335 or less may be accepted and retained by an employee for personal use. Gifts of greater value are accepted on behalf of the United States Government. Prior to 2008, the value of gifts that could be retained was \$305.

Honoraria in Connection with Official Speaking Engagements – NTIA has authority to accept travel payments in connection with official speaking engagements, if not solicited and if the circumstances would not be likely to create an appearance of loss of impartiality in the operation of NTIA activities. However, a Department policy bars agencies, including NTIA, from accepting an honorarium in connection with an official speech or appearance.

Soliciting Gifts for NTIA Programs – NTIA may solicit, as well as accept, gifts (other than travel gifts) to support NTIA programs, but only if such solicitations will not present an appearance of loss of impartiality with regard to agency programs or employees or otherwise create a conflict of interest or an appearance of such a conflict. Before soliciting gifts, you should seek specific guidance from the Ethics Law and Programs Division at 202-482-5384.

Outside Employment and Activities

Service with Non-Federal Organizations – If you serve as an officer or director of an outside organization, such as a professional association, you may not participate as an NTIA employee on any matter that is likely to affect the financial interests of the organization. This may preclude you from serving with organizations that are active in matters before your office. If it would benefit NTIA to have an official relationship with a private organization, you may be assigned as a liaison to the organization, in which case your service with the organization would be in an official capacity, rather than a personal capacity. However, you may not be assigned to serve in an official capacity as an officer or director of a non-Federal organization (other than a standards-setting body).

Representing Others Before Federal Agencies – Employees in NTIA, like all Executive Branch employees, are barred from serving as an agent or attorney for or, if paid, otherwise representing anyone before a Federal agency or Federal court. This generally bars any contacts made with the intent to influence Government action. However, you may contact other agencies in an official capacity if the communication supports an agency program, including contacting United States Citizenship and Immigration Services (USCIS) of the Department of Homeland Security (the successor agency to the Immigration and Naturalization Service (INS)) to recommend a residency permit for an individual whose presence in the United States directly supports a Department program. Such contacts may only be made to support an agency program and should be approved by a senior official in NTIA.

Political Activities

Use of Access to E-Mail – It is important that you do not send, or even forward, political messages using your Government e-mail account or your Government computer to access a private e-mail account. Such use of Government resources is an improper political activity and is the most frequent basis for referrals to the Office of Special Counsel for disciplinary action.

Misuse of Government Resources

Protection of Information – As an NTIA employee, you must be particularly careful to safeguard non-public information to which you have access, including business proprietary information.

Employment Decisions by Political Appointees – If you are a political appointee, you were required to sign an Ethics Pledge in which you agree that any hiring or other employment decision you make is based on the candidate's qualifications, competence, and experience.

Seeking Employment and Post-Employment Activities

Definition of "Senior Employee" – The definition of "senior employee" for purposes of post-employment restrictions means anyone receiving base pay equivalent to or greater than 86.5% of Executive Level II, which in 2010 is equal to or greater than \$155,440. If your base pay is this amount, you will be subject to the one-year "no-contact" rule and the restrictions on representing or advising foreign governments.

New Restrictions Applicable to Political Appointees – If you are a political appointee, you are required to sign an Ethics Pledge in which you agree to a number of restrictions that will apply after you leave Federal service. These restrictions, which do not apply to career Federal employees, are that:

- for the remainder of the President's Administration, you will not lobby (provide services that require registration under the Lobbying Registration Act) any political appointee in the Executive Branch, or any admiral or general;
- if you leave Federal service to become a lobbyist or work for a lobbying organization, you will not seek or accept employment with a Federal agency that you lobbied during the prior two years; and
- if you are a senior employee (annual base pay of \$155,440 or more), for two years after leaving Federal service you will not represent anyone before your former agency, which is NTIA (or, if you are the Assistant Secretary, the Department of Commerce).

The requirement to sign an Ethics Pledge, and the imposition of these restrictions, are based on an Executive Order on ethics that the President issued on January 21, 2009.



CITATIONS TO APPLICABLE LAW

NTIA

Financial Conflicts of Interest

18 United States Code (U.S.C.) § 208
5 Code of Federal Regulations (C.F.R.) §§ 2635.401-2635.403, 2635.502,
2640.201-2640.202

Appearances of Bias (Non-Financial Conflicts of Interest)

5 C.F.R. §§ 2635.501-2635.503
Executive Order 13490, dated January 21, 2009

Gifts, Bribes, and Salary Supplementation

5 U.S.C. §§ 7342, 7351, and 7353; 15 U.S.C. § 1522; 18 U.S.C. §§ 201 and 209
5 C.F.R. §§ 2635.201-2635.205, 2635.301-2635-304; 41 C.F.R. Part 304-1
Department Administrative Order 203-9
Executive Order 13490, dated January 21, 2009

Outside Activities and Lobbying the Government

18 U.S.C. §§ 203, 205, and 208
5 C.F.R. §§ 2635.801-2635.809

Political Activities

5 U.S.C. §§ 7321-7326; 5 C.F.R. §§ 734.201-734.702

Misuse of Government Position and Resources

18 U.S.C. § 641; 5 C.F.R. §§ 2635.701-2635.705
Department of Commerce Internet Use Policy

Seeking Employment and Post-Employment Activities

18 U.S.C. §§ 207 and 208; 41 U.S.C. § 423
5 C.F.R. Parts 2635, 2637, and 2641; 15 C.F.R. §§ 15.11-15.18; 37 C.F.R. Part 10
Executive Order 13490, dated January 21, 2009

*Prepared by the Ethics Law and Programs Division, Office of the Assistant General Counsel for
Administration, United States Department of Commerce – January 5, 2010*